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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

UNITED STATES OF AMERICA; STATES
OF CALIFORNIA, COLORADO,
CONNECTICUT, DELAWARE, FLORIDA,
GEORGIA, HAWAII, ILLINOIS, INDIANA,
IOWA, LOUISIANA, MICHIGAN,
MINNESOTA, MONTANA, NEVADA, NEW
JERSEY, NEW MEXICO, NEW YORK,
NORTH CAROLINA, OKLAHOMA,
RHODE ISLAND, TENNESSEE, TEXAS,
VERMONT, AND WASHINGTON; THE
COMMONWEALTHS OF
MASSACHUSETTS AND VIRGINIA; AND
THE DISTRICT OF COLUMBIA,

ex rel. ZACHARY SILBERSHER,

Plaintiffs,

v.

JANSSEN BIOTECH, INC., JANSSEN
ONCOLOGY, INC., JANSSEN RESEARCH
& DEVELOPMENT, LLC, and JOHNSON &
JOHNSON,

Defendants.

Case No.3:17-cv-07250-JST

**[PROPOSED] ORDER DENYING
DEFENDANTS' MOTION TO DISMISS
THE COMPLAINT**

1 Plaintiff-Relator Zachary Silbersher in this *qui tam* action asserts claims under the False Claims
2 Act, 31 U.S.C. §§ 3729–3733 (the “FCA”), and the false claims acts of the respective states.

3 Relator alleges that defendants Janssen Biotech, Inc.; Janssen Oncology, Inc.; Janssen Research
4 & Development, LLC; and Johnson & Johnson (“Defendants”) submitted or caused the submission of
5 false claims to government-funded health programs through a fraudulent course of conduct that
6 artificially inflated the price of their drug Zytiga® (abiraterone acetate). Relator’s operative complaint
7 (Dkt. 7) alleges that Defendants artificially inflated the price of Zytiga by using a fraudulently obtained
8 patent to bar generic competitors from entering the market. Relator further alleges that Defendants
9 submitted or caused the submission of claims for payment for Zytiga at unlawfully inflated prices to
10 various government-funded health programs.

11 The Court finds that Relator has sufficiently alleged claims under the federal FCA and the
12 relevant state statutes. *See Universal Health Servs., Inc. v. U.S. ex rel. Escobar*, _U.S._, 136 S. Ct. 1989
13 (2016); *U.S. ex rel. Campie v. Gilead Scis., Inc.*, 862 F.3d 890 (9th Cir. 2017). In addition, the Court
14 finds that there has been no public disclosure of the material elements of Relator’s claims; and even if
15 there were such public disclosure, the Relator is an “original source” of such information under 31
16 U.S.C. §§ 3730(e)(4)(A), (B).

17 CONCLUSION

18 For the foregoing reasons, Defendants’ motion to dismiss is denied in its entirety.

19 **IT IS SO ORDERED.**

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22 DATE: _____

23 _____
24 Hon. Jon S. Tigar
25 United States District Judge
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